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Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Compliance Committee

Fifty-eighth meeting
Budva, Montenegro, 10–13 September 2017

Report of the Compliance Committee on its fifty-eighth meeting

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Introduction

1. The fifty-eighth meeting of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held from 10–13 September 2017 in Budva, Montenegro.

A. Attendance

2. Eight of the nine Committee members were present throughout the entire meeting. Committee member Áine Ryall was unable to attend the meeting. Members having declared a conflict of interest with respect to particular cases did not participate in closed sessions on those cases.

3. Participating as observers during the open sessions on 12 September 2017 were representatives of Belarus, Belgium, Greece, Malta, Poland and Ukraine and representatives of the following non-governmental organizations (NGOs): Ecoropa (Netherlands); Eco-TIRAS International Environmental Association of River Keepers (Republic of Moldova), the communicant of communication PRE/ACCC/C/2017/147 (Republic of Moldova); European Platform Against Windfarms (Ireland); and the Independent Institute for Environmental Issues (Germany) and Justice and Environment (represented jointly). Mr. Beibut Shermukhametov, a judge on the Supreme Court of Kazakhstan also participated as an observer. In addition, representatives of the communicants of communications PRE/ACCC/C/2016/146 (Poland) and PRE/ACCC/C/2017/148 (Greece) took part by audio conference in the open session on the preliminary admissibility of new communications.

B. Organizational matters

4. The Chair of the Compliance Committee, Jonas Ebbesson, opened the meeting.

5. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2017/9.

I. Submissions, referrals and requests under the Convention

6. With regard to submission ACCC/S/2015/2 (Belarus), the Committee recalled that, at its request, the secretariat had sent questions to the Party concerned and the submitting Party on 10 August 2017. By email of 28 August and through an in-person request from a representative of the Permanent Mission of Belarus to the United Nations Office at Geneva on 30 August 2017, the Party concerned had requested an extension of the deadline to reply. On 30 August 2017, the submitting Party had provided its reply to questions from the Committee. By email of 12 September 2017, the secretariat had informed the Party concerned that the Chair of the Committee had, after considering the reasons for the request provided, agreed to extend the deadline for the Party concerned to reply to the Committee's questions until 16 October 2017. In the light of the extended deadline to reply for the Party concerned, the Committee agreed to defer its deliberations on its draft findings, with a view to completing its draft findings and, as appropriate, recommendations.

7. With respect to submission ACCC/S/2016/3 (Albania), the Chair recalled that the Committee had determined that it would not be possible to examine the submission until domestic proceedings had been completed. In response to an email sent to the Party concerned by the secretariat enquiring as to whether there had been any developments

regarding the submission, the Committee had received an email on 8 September 2017. It noted, however, that it was sent from a personal email address and it was not clear whether the email should be considered to be the official reply by the Party concerned. The Committee accordingly instructed the secretariat to check with the national focal point concerning the status of the email of 8 September and the current state of the domestic proceedings. The Committee agreed to defer its consideration of the submission pending a reply on the points mentioned and to decide how to proceed once those points had been clarified.

8. The secretariat observed that it had made no referrals since the Committee's last meeting.

9. The Committee confirmed the adoption of the edited version of its recommendations with regard to advisory request ACCC/A/2014/1 (Belarus) contained in document ECE/MP.PP/C.1/2017/11. The Committee stated that a translation into the French and Russian languages would be uploaded on the United Nations Economic Commission for Europe (ECE) website as soon as it became available.

II. Communications from members of the public

10. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its fifty-ninth meeting (Geneva, 11–15 December 2017) would be 7 November 2017.

11. The Committee confirmed the adoption of the edited version of its findings and, where relevant, recommendations, in the English language as contained in documents ECE/MP.PP/C.1/2017/12 to ECE/MP.PP/C.1/2017/21 with regard, respectively, to the following communications: ACCC/C/2008/32, part II (European Union); ACCC/C/2013/88 (Kazakhstan); ACCC/C/2013/89 (Slovakia); ACCC/C/2013/91 (United Kingdom of Great Britain and Northern Ireland); ACCC/C/2013/92 (Germany); ACCC/C/2013/93 (Norway); ACCC/C/2014/99 (Spain); ACCC/C/2014/101 (European Union); ACCC/C/2014/102 (Belarus); ACCC/C/2014/111 (Belgium); and ACCC/C/2014/123 (European Union). The Committee stated that translations into French and Russian would be uploaded on the ECE website as soon as they became available.

12. Concerning communication ACCC/C/2013/90 (United Kingdom), the Chair confirmed that the Committee had provisionally scheduled to hold a hearing to discuss the substance of the communication at its fifty-ninth meeting.

13. Regarding communication ACCC/C/2013/96 (European Union), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its next meeting, with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

14. Concerning communication ACCC/C/2013/98 (Lithuania), the Committee noted that it had sent further questions to the Party concerned on 15 August 2017. On 28 August 2017, the Party concerned had requested an extension of the time frame for its reply to several of the questions of the Committee. By email of 29 August 2017, the secretariat had informed the Party concerned that the Chair had, after considering the reasons for the request provided, agreed to extend the deadline for the Party concerned to reply to those questions until 1 October 2017, though the original deadline of 1 September 2017 would apply to the rest of the questions. The Party concerned had provided its reply to the first part of the questions on 31 August 2017, and on 7 September 2017 the communicant had provided its comments thereon. The Committee continued its deliberations in closed session taking into

account the information received and agreed to continue those deliberations at its next meeting, with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

15. Concerning communication ACCC/C/2014/100 (United Kingdom), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its next meeting with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

16. With respect to communication ACCC/C/2014/104 (Netherlands), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its next meeting, with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

17. Concerning communication ACCC/C/2014/105 (Hungary), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its next meeting, with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

18. Concerning communication ACCC/C/2013/106 (Czechia), the Committee recalled that on 11 July 2017 the Party concerned had provided comments on the communicant's replies dated 23 June 2017 to the Committee's questions. The Committee continued its deliberations in closed session taking into account the information received and agreed to continue those deliberations at its next meeting, with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

19. With respect to communication ACCC/C/2013/107 (Ireland), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its next meeting, with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

20. Concerning communication ACCC/C/2014/112 (Ireland), the Committee noted that it had agreed at its previous meeting to defer its deliberations on its draft findings until its fifty-ninth meeting, with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

21. With respect to communication ACCC/C/2014/113 (Ireland), the Committee recalled that it had agreed at its previous meeting to defer its deliberations on its draft findings until its fifty-ninth meeting, with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

22. Concerning communication ACCC/C/2014/118 (Ukraine), the Committee noted that at its fifty-fourth meeting (Geneva, 27–30 September 2016) it had requested the secretariat to ask the ECE Executive Secretary to write to the Minister of Foreign Affairs of the Party concerned, conveying the Committee's serious concern at the ongoing failure to respond to the communication and to inform the Party that if no response was received by the date stated in the reminder letter, the Committee would schedule the hearing to discuss the substance of the communication notwithstanding the Party's lack of response.

23. Regarding communication ACCC/C/2014/119 (Poland), the Committee recalled that it had agreed at its previous meeting to defer its deliberations on its draft findings until its fifty-ninth meeting, with a view to thereafter completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

24. Concerning communication ACCC/C/2014/120 (Slovakia), the Committee noted that it had agreed at its previous meeting to defer its deliberations on its draft findings until its fifty-ninth meeting, with a view to thereafter completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

25. Regarding communication ACCC/C/2014/121 (European Union), the Committee noted that it had agreed at its previous meeting to defer the commencement of its deliberations until its fifty-ninth meeting.

26. With respect to communication ACCC/C/2014/122 (Spain), the Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its fifty-ninth meeting.

27. Regarding communication ACCC/C/2014/124 (Netherlands), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its next meeting, with a view to completing its draft findings and, as appropriate, recommendations. Once agreed, the draft findings and any recommendations would be sent for comment to the Party concerned and the communicant.

28. With respect to communication ACCC/C/2015/126 (Poland), the Committee provisionally scheduled that it would hold a hearing to discuss the substance of the communication at its fifty-ninth or sixtieth meeting.

29. Regarding communication ACCC/C/2015/128 (European Union), the Committee provisionally scheduled to hold a hearing to discuss the substance of the communication at its fifty-ninth or sixtieth meeting.

30. Concerning communication ACCC/C/2015/130 (Italy), the Committee noted that it had agreed at its fifty-sixth meeting (Geneva, 28 February–3 March 2017) to send questions to the communicant and the Party concerned to obtain further information. The Committee agreed to decide how to proceed with the communication once the questions had been sent and the replies had been received.

31. With respect to communication ACCC/C/2015/131 (United Kingdom), the Committee recalled that it had agreed at its fifty-third meeting (Geneva, 21–24 June 2016) to ask the communicant to comment on the submissions on admissibility made by the Party concerned in its response. The Committee agreed to decide how to proceed with the communication once the questions had been sent and the replies had been received.

32. Regarding communication ACCC/C/2015/132 (Ireland), the Committee noted that it had agreed its fifty-fourth meeting to ask the communicant to comment on the submissions on admissibility made by the Party concerned in its response to the communication. The Committee agreed to decide how to proceed with the communication once the questions had been sent and the communicant's reply had been received.

33. With respect to communication ACCC/C/2015/133 (Netherlands), the Committee noted that it had agreed at its fifty-fourth meeting to send both the communicant and the Party concerned further questions concerning the availability of domestic remedies. The Committee agreed to decide how to proceed with the communication once the questions had been sent and the replies had been received.

34. Concerning communication ACCC/C/2015/134 (Belgium), the Committee provisionally scheduled that it would hold a hearing to discuss the substance of the communication at its sixtieth or sixty-first meeting.

35. With respect to communication ACCC/C/2015/135 (France), the Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its sixtieth or sixty-first meeting.

36. Regarding communication ACCC/C/2016/137 (Germany), the Committee noted that at its fifty-sixth meeting it had agreed to send questions to the communicant concerning the availability of domestic remedies and that it would decide how to proceed in the light of the communicant's reply.

37. Concerning communication ACCC/C/2016/138 (Armenia), the Committee provisionally scheduled to hold a hearing on the communication at its sixty-first or sixty-second meeting.

38. Regarding communication ACCC/C/2016/139 (Ireland), the Committee noted that in its response to the communication the Party concerned had challenged the admissibility of the communication. The Committee agreed to consider how to proceed with respect to the communication at its fifty-ninth meeting.

39. With respect to communication ACCC/C/2016/140 (Romania), the Committee provisionally scheduled to hold a hearing on the communication at its sixty-first or sixty-second meeting.

40. With respect to communication ACCC/C/2016/141 (Ireland), the Committee provisionally scheduled to hold a hearing on the communication at its sixty-second or sixty-third meeting.

41. Concerning communication ACCC/C/2016/142 (United Kingdom), the Committee noted that the response of the Party concerned, due on 6 July 2017, had been received on 10 July 2017. On 24 and 25 July 2017, the communicant had provided comments on the Party's response.

42. With respect to communication ACCC/C/2016/143 (Czechia), the Committee noted that the response of the Party concerned had been received on 4 July 2017 on time.

43. Concerning communication ACCC/C/2016/144 (Bulgaria), the Committee noted that the response of the Party concerned had been received on 18 August 2017 on time.

44. Regarding communications received between 23 May 2017 (the deadline for receipt of communications for the fifty-seventh meeting) and 6 August 2017 (the deadline for receipt of communications for the fifty-eighth meeting), the Chair reported that he and the Vice-Chair had held a telephone conference on 21 August 2017 to determine which of the communications received during that period sufficiently met the required format to be forwarded to the Committee for consideration as to their preliminary admissibility. In that regard, the Chair and the Vice-Chair had decided that communications PRE/ACCC/C/2017/145 (Belgium), PRE/ACCC/C/2017/146 (Poland), PRE/ACCC/C/2017/147 (Republic of Moldova) and PRE/ACCC/C/2017/148 (Greece) should be forwarded to the Committee for its consideration of their preliminary admissibility at its fifty-eighth meeting. He had requested the secretariat to inform the Parties and communicants concerned and to post those communications on the Committee's website in advance of the meeting.

45. The Committee recalled that communication PRE/ACCC/C/2017/145 (Belgium) had been submitted by the Aachen local branch of the NGO NABU on 11 March 2017. In response to a request from the Chair and the Vice-Chair, the communicant had provided additional information on 17 August 2017. During the meeting, the Committee heard the

views of the Party concerned in person on the preliminary admissibility of the communication. Despite being invited, the communicant did not take part in the session. After considering in closed session the information received, the Committee determined that the communication was inadmissible under paragraph 20 (d) in conjunction with paragraph 19 of the annex to decision I/7 of the Meeting of the Parties on compliance, on the ground that the communication was not supported by sufficient corroborating information. The Committee requested the secretariat to inform the communicant of that decision.

46. The Committee observed that communication PRE/ACCC/C/2017/146 (Poland) had been submitted by the NGO ClientEarth Poland on 7 June 2017. The communication alleged non-compliance with article 6, paragraph 1 (a), and article 9, paragraphs 2 and 3, of the Convention in connection with certain water permits not required to undergo an environmental impact assessment procedure. On 7 September 2017, the Party concerned had sent a written statement on the preliminary admissibility of the communication. During the meeting, the Committee heard the views of the Party concerned in person and the communicant by audio conference as to the preliminary admissibility of the communication. After considering in closed session the information received, the Committee determined that the communication was preliminarily admissible. It requested the secretariat to forward the communication to the Party concerned for its response.

47. The Committee noted that communication PRE/ACCC/C/2017/147 (Republic of Moldova) had been submitted by the NGO Eco-TIRAS International Environmental Association of River Keepers on 9 July 2017. The communication alleged non-compliance with article 3, paragraphs 1 and 2, article 4, paragraph 8, and article 5, paragraph 2 (b) (ii), of the Convention concerning access to information held by the State Hydrometeorological Service. During the meeting, the Committee heard the views of the communicant in person on the preliminary admissibility of the communication. Despite being invited, the Party concerned did not participate in the session. After considering in closed session the information received, the Committee determined that the communication was preliminarily admissible. It requested the secretariat to forward the communication to the Party concerned for its response.

48. The Committee recalled that communication PRE/ACCC/C/2017/148 (Greece), had been submitted by the NGOs ClientEarth United Kingdom and the World Wide Fund for Nature Greece, on 3 August 2017. The communication alleged non-compliance with article 9, paragraphs 2 and 4, of the Convention in relation to the granting or extension of certain permits for power plants by way of legislative acts. During the meeting, the Committee heard the views of the Party concerned in person and those of the communicants by audio conference on the preliminary admissibility of the communication and on 13 September 2017 the Party concerned submitted its views in writing. After considering in closed session the information received, the Committee determined that the communication was preliminarily admissible. It requested the secretariat to forward the communication to the Party concerned for its response.

49. At its sixth session (Budva, Montenegro, 11–13 September 2017), which was being held in parallel to the Committee's fifty-eighth meeting, the Meeting of the Parties to the Aarhus Convention was to elect up to six new members for the Compliance Committee (with three existing Committee members standing for possible re-election); the Committee agreed therefore to defer the appointment of curators for communications ACCC/C/2017/146 (Poland), ACCC/C/2017/147 (Republic of Moldova) and ACCC/C/2017/148 (Greece) until its fifty-ninth meeting (Geneva, 12–15 December 2017).

III. Reporting requirements

50. The Committee noted that all national implementation reports for the fourth (2014) reporting cycle had now been received.

IV. Follow-up on specific cases of non-compliance

51. The Chair recalled that, since the Committee's fifty-seventh meeting (Geneva, 27–30 June 2017), it had completed its reports to the sixth session of the Meeting of the Parties on the implementation of decisions V/9a–n:

(a) With respect to decision V/9a (Armenia), the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 13 July 2017 (ECE/MP.PP/2017/33);

(b) Regarding decision V/9b (Austria), the Party concerned had provided an update with additional information on 7 July 2017. After taking into account the information received, the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 12 July 2017 (ECE/MP.PP/2017/34);

(c) Concerning decision V/9c (Belarus), the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 27 July 2017 (ECE/MP.PP/2017/35);

(d) With respect to decision V/9d (Bulgaria), the Committee had adopted its report to the sixth session of the Meeting of the Parties at its fifty-seventh meeting (ECE/MP.PP/2017/36);

(e) Concerning decision V/9e (Croatia), the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 31 July 2017 (ECE/MP.PP/2017/37);

(f) Regarding decision V/9f (Czechia), the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 20 July 2017 (ECE/MP.PP/2017/38);

(g) With respect to decision V/9g (European Union), the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 6 June 2017, prior to its fifty-seventh meeting (ECE/MP.PP/2017/39);

(h) Regarding decision V/9h (Germany), the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 31 July 2017 (ECE/MP.PP/2017/40);

(i) Concerning decision V/9i (Kazakhstan), on 12 July 2017 the Party concerned had provided a brief update on the status of its pending legislation. After taking into account the information received, the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 17 July 2017 (ECE/MP.PP/2017/41);

(j) With respect to decision V/9j (Romania), the Committee had adopted its report to the sixth session of the Meeting of the Parties at its fifty-seventh meeting (ECE/MP.PP/2017/42);

(k) Regarding decision V/9k (Spain), the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-

making procedure on 26 June 2017, prior to its fifty-seventh meeting (ECE/MP.PP/2017/43);

(l) With respect to decision V/9l (Turkmenistan), the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 31 July 2017 (ECE/MP.PP/2017/44). On 1 August 2017, the Chair of the Committee had received a letter from an observer, the European Environmental Bureau, alleging that the Party concerned had in fact amended key aspects of the legislation on which the Committee had based the findings in its report to the sixth session of the Meeting of the Parties. On 4 August 2017, the Chair of the Committee had sent a letter to the Party concerned enquiring as to the impact, if any, on the Party's implementation of decision V/9l of the legislative changes identified by the European Environmental Bureau. On 24 August 2017, the Party concerned had replied to the Chair's letter and on 5 September 2017, the European Environmental Bureau had provided its comments thereon. After taking into account the information received, on 8 September 2017 the Chair of the Committee had sent a letter to the Chair of the Bureau of the Meeting of the Parties;

(m) Concerning decision V/9m (Ukraine), after taking into account the comments provided by the communicant of communication ACCC/C/2013/87 on 28 June 2017, the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 31 July 2017 (ECE/MP.PP/2017/45);

(n) With respect to decision V/9n (United Kingdom), the Committee had finalized its report to the sixth session of the Meeting of the Parties and adopted it through its electronic decision-making procedure on 25 July 2017 (ECE/MP.PP/2017/46).

V. Programme of work and calendar of meetings

52. The Committee agreed to hold its fifty-ninth meeting from 11 to 15 December 2017, its sixtieth meeting from 5 to 9 March 2018,[1] its sixty-first meeting from 2 to 6 July 2018 and its sixty-second meeting from 5 to 9 November 2018, all in Geneva.

VI. Other business

A. Open dialogue session with Parties and stakeholders

53. The Committee held an open dialogue session with Parties and stakeholders on 13 September 2017 during the lunch break in the plenary session of the sixth session of the Meeting of the Parties. A number of Parties, NGOs and other observers took part. Prior to the session, the secretariat had, at the request of the Chair, written to Parties, NGOs and observers to invite them to submit a list of issues that they would like to discuss. The Chair introduced the session, presented the list of issues received and invited comments from Parties, NGOs and other observers on each issue in turn.

1. Ultrahazardous activities and the "public concerned" in the transboundary context

54. With regard to a request by the Netherlands for further guidance on the issue of notification of the public concerned with regard to ultrahazardous and other activities as

[1] Subsequently the dates of the sixtieth meeting were changed to 12 to 16 March 2018.

well as in the transboundary context, the Chair explained that it was not possible for the Committee to provide formal legal assistance in the informal setting of the open dialogue session; however, any Party was welcome to submit a request for advice or assistance to the Committee on that or another legal issue, according to the procedure established by the fifth session of the Meeting of the Parties for such requests (see ECE/MP.PP/2014/2, para. 53).

2. Exhaustion of domestic remedies

55. A representative of the European Union emphasized the importance of the exhaustion of domestic remedies. The Chair recalled that, following the discussions on both that issue and the procedure with respect to new communications at the open dialogue session held during the fifth session of the Meeting of the Parties, in the intersessional period the Committee had introduced a new procedure. Under that procedure, prior to each regular Committee meeting the Chair and the Vice-Chair, supported by the secretariat, held an audio conference to examine whether the communications received since the Committee's previous meeting were sufficiently in the required format to be considered for preliminary admissibility at the Committee's upcoming meeting. In their examination, the Chair and the Vice-Chair, inter alia, reviewed whether the communication contained sufficient information on the use of available domestic remedies. In addition, during the intersessional period, the Committee had introduced open sessions on the preliminary admissibility of communications in which both the Parties concerned and the communicants were invited to take part either in person or by audio conference. The Chair further noted that the open sessions enabled the Parties concerned to raise any concerns they had about the admissibility of new communications, including with respect to the exhaustion of domestic remedies.

3. Deadline in compliance procedures

56. Representatives of Belarus, the European Union and Ireland emphasized the importance of sufficient time frames for Parties to prepare their replies during compliance procedures, particularly bearing in mind the need for translations and internal coordination, including with other ministries. The Chair stated that, in addition to the fixed timelines prescribed by the annex to decision I/7 for the Party concerned to respond to communications and submissions, it was the Committee's general practice to give Parties and communicants three weeks to prepare their written replies to its questions. He explained that if either party considered that they might need further time to reply to the Committee's questions they could ask for an extension. In that regard, all such requests received by the Committee to date had been at least partially granted. A representative of Germany stated that the country had benefitted from such extensions in the past and welcomed that practice. It was suggested that the possibility for parties to a case to request an extension of the time to reply to questions from the Committee be included in the revised guide to the Compliance Committee. The Chair affirmed that that the proposal would be borne in mind.

4. Use of audio- and video-conferencing facilities

57. A representative of the European Union asked whether audio conferences might be used to facilitate the participation of the Parties concerned in the Committee's hearings of communications and submissions. A representative of the NGO European Platform Against Windfarms stated that, based on experience, the participation by both parties at the hearing in person was very important. The Chair explained that the Committee was making increasing use of audio conferences in its open sessions, including sessions on the preliminary admissibility of new communications and on its follow-up on decisions of the Meeting of the Parties. Also, prior to scheduling a hearing in each case, the Committee now considered whether it might be possible to proceed to commence its deliberations on its

draft findings without holding a hearing. The Chair emphasized, however, that in each case for which the Committee decided that a hearing should be held, it was imperative that the Party and communicant take part in the hearing in person.

58. A representative of the European Union stressed how important it was that the United Nations Office at Geneva provide adequate facilities for audio conferencing. The delegation of the United Kingdom added in that regard that it had encountered technological problems in the past when participating in Committee meetings by audio conference owing to limitations in the facilities available at the United Nations Office in Geneva and requested that suitable facilities be provided. The representative of European ECO Forum supported the statement of the United Kingdom and called on the other Parties to join in that request.

5. Prioritization of cases and protection of activists

59. The representative of the European ECO Forum emphasized the importance of reducing the time for the Committee's handling of communications and raised the possibility of prioritizing certain cases. In that context, the delegate from the NGO Ecohome raised the specific issue of the persecution of activists as requiring particularly quick processing times. The Chair stated that the Committee had in the past, upon learning of such allegations, immediately requested information from the Party concerned and that there was also the possibility to conduct country missions, if appropriate. The Committee was very open to suggestions on how to reduce the time required to process its caseload, but there could be issues of fairness if some cases were prioritized over others.

6. Reversal of legislation or practice previously found to be in compliance

60. The representative of the European ECO Forum queried how the Committee might most appropriately deal with cases in which, at the time that the Committee made its report on the implementation of a decision on compliance to the Meeting of the Parties a Party concerned had fulfilled all that decision's requirements but had then shortly thereafter reversed the measures upon which the Committee had based its report. The Chair noted that if such a situation were to arise the Committee would determine the most appropriate way to proceed on a case-by-case basis.

7. Transparency of the Committee's follow-up on decisions of the Meeting of the Parties

61. The representative of the European ECO Forum welcomed the Committee's introduction of more rigorous procedures regarding the follow-up on decisions of the Meeting of the Parties on compliance, but found there to be room for improvement regarding transparency, in particular with respect to the rationale for the different deadlines set by the Committee for Parties' concerned to provide their final reports on the implementation of decisions on compliance. It was also a matter of concern that there had been no possibility to comment on the draft decisions on compliance prepared for the sixth session of the Meeting of the Parties. The Chair explained that the draft decisions on compliance in question had been prepared by the Bureau of the Meeting of the Parties to the Convention based on the Committee's findings and recommendations and had not been prepared by the Committee itself. With respect to the transparency of the Committee's follow-up on decisions on compliance, during the intersessional period there had in fact been a marked increase in transparency, inter alia, owing to the Committee's introduction of progress reviews which were sent to the Parties concerned, the communicants and observers, as well as the holding of audio conferences with the Parties concerned, the communicants and observers. However, the Committee would bear in mind how it might make further improvements on that point.

8. Effective recommendations on compliance

62. The representative of the European ECO Forum, supported by Ecohome, stated that targeted recommendations were particularly helpful in addressing non-compliance, specifically where domestic remedies were insufficient. A member of the public, Mr. Ozharovskiy, also made a statement on the importance of ensuring effective recommendations. The Chair said that the Committee was interested to receive information from communicants and observers on any particular aspects of the framework of the Party concerned that might warrant a specific form of recommendation. However, the Committee was not a redress mechanism and its recommendations were rather intended to ensure that the non-compliance found did not recur in the future.

9. Building on the Committee's success

63. The representative of the European ECO Forum expressed the organization's full support for the work of the Committee and asked whether there was any process through which the Committee's practice and experience could be shared. The Chair reported that the informal network of chairs of the compliance and implementation bodies under the ECE multilateral environmental agreements[2] had now met four times and that that had been a very useful forum through which to share experiences and good practice.

10. Other issues raised during the open dialogue session

64. The representative of the European ECO Forum sought the Committee's guidance on how communicants might ensure that their communications were well prepared. The Chair emphasized that it was important that communicants fully completed the required format for communications. He also noted that if systemic non-compliance was alleged it was necessary for communicants to provide evidence, be it jurisprudence or practice, to support that allegation.

65. A representative of the United Kingdom enquired whether it might be possible to receive a timeline indicating the cases that were scheduled to be heard at the Committee's upcoming meetings in order that Parties might better plan their preparation for hearings. The Chair noted that the Committee's meeting report generally recorded the hearings provisionally scheduled for the Committee's next two or three meetings and that the Committee would bear in mind the possibility to give notice of proposed hearings further in advance.

66. A representative of Belarus emphasized the importance of translating any guidance documents to be prepared by the Committee, including the revised guide to the Committee, into Russian. The Chair stated that it was indeed the intention that the revised guide, once completed, would be made available in English, French and Russian.

67. A representative of the NGO Irish Environmental Pillar expressed concern that the text of several draft decisions on compliance had been amended during the sixth session of the Meeting of the Parties, which could undermine the content of the Committee's findings and did not give other delegations sufficient opportunity to consider the legal implications of the amended text. The Chair noted that, in his view, none of the amendments made to the draft decisions during the sixth session had altered the substance of the Committee's findings and that minor refinements to the recommendations contained in the draft decision could in some cases be appropriate if they would assist the Party to more fully implement the Committee's findings.

[2] See http://www.unece.org/environmental-policy/conventions/joint-work-and-informal-networks.html.

B. Modus operandi

68 The Chair noted that the third draft of the revised guide to the Compliance Committee had been made available on the Committee's web page and that the deadline to receive comments had been 1 April 2017. On 30 August 2017, the Committee had received a request from Belarus to have the possibility to send comments notwithstanding the expiry of the earlier deadline. Bearing in mind the possibility that other Parties or observers might likewise also still wish to send comments, the Committee agreed to extend the deadline for all Parties and observers to comment on the draft to 1 November 2017.

C. Other matters

69. The Chair thanked each of the outgoing members of the Compliance Committee, Mr. Alistair McGlone, Ms. Elena Fasoli, Mr. Ion Diaconu and Mr. Pavel Černý for their excellent service to the Committee.

VII. Adoption of the report and closure of the meeting

70. The Committee agreed to adopt its report through its electronic decision-making procedure after the meeting. The Chair then officially closed the fifty-eighth meeting.